

***Village of Barrington  
Zoning Board of Appeals  
Minutes Summary***

Date: January 7, 2003

Time: 7:00 p.m.

Location: Village Board Room  
200 South Hough Street  
Barrington, Illinois

In Attendance: Patricia Pokorski, Chair, Zoning Board of Appeals  
Ralph Bartlett, ZBA  
Robert Henehan, ZBA  
Ryan Julian, ZBA  
Bruce Kramer, ZBA  
Peg Moston, ZBA

Staff Members: Keith Sbiral and Jim Wallace, Planners  
Sally Lubeno, Recording Secretary

***Call to Order***

Chair Patricia Pokorski called the meeting to order at 7 p.m. Roll Call noted the following Patricia Pokorski, Chair, present; Ralph Bartlett, present; Robert Henehan, present; Ryan Julian present; Bruce Kramer, present; Victoria Perille, absent; and Peg Moston, present. There being a quorum; the meeting proceeded.

***New Business***

**Public Hearings.**

Ms. Pokorski swore in anyone who would be giving testimony this evening.

**ZBA 02-13 Flubacker Appeal of Interpretation**

The petitioner requested a continuance to February 4, 2003. Mr. Bartlett moved and Mr. Kramer seconded to continue Zoning Board of Appeals 02-13 to February 4, 2003. Roll Call noted the following: Patricia Pokorski, Chair, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian yes; Bruce Kramer, yes; and Peg Moston, yes.

**ZBA 02-14 Flubacker Variation Barrington Services Group.**

Mr. Bartlett moved and Mr. Henehan seconded to continue Zoning Board of Appeals 02-14 to February 4, 2003. Roll Call noted the following: Patricia Pokorski, Chair, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian yes; Bruce Kramer, yes; and Peg Moston, yes

**ZBA 02-15 O'Donnell Bed and Breakfast Special Use**

Ms. Pokorski noted that the petitioner was requesting a special use because the ordinance did not specifically allow this use.

***Marty and Mary O'Donnell, 9162 Primrose Lane, Fox River Grove***

The petitioner distributed updated information, which replaced what was in the packet; Exhibit 3, which addressed the parking issue. The petitioner stated that they had an option on the property at 203 Dundee Avenue provided the Village would approve the special use.

Mr. O'Donnell noted that the site plan was preliminary and was not trying to address architectural issues, but a parking space had been added. He stated that the home was currently a single-family residence, which needed renovation. It was built in 1885 and was listed as a brick Georgian colonial. Mr. O'Donnell added that he and his

wife were not requesting any variations. He stated that this petition was requesting a special use for the property to be operated as a bed and breakfast. He noted the request included an addition to the existing home. Mr. O'Donnell stated that he and his wife had talked to several neighbors and had received several signed statements of support. He noted that the home was located in the historic district. He thought that the use would lend itself well to the neighborhood. Mr. O'Donnell stated that the Village could use a bed and breakfast, which would bring guests into the Village. He noted that he and his wife had four children and five guest rooms would be included in the request. Mr. O'Donnell cited some studies about the operations of bed and breakfasts, which stated that a 40% occupancy rate would be successful. He noted that this would mean an average of four to five people at this location at any one time. He noted that this home now had seven occupants. Mr. O'Donnell stated that this property would be their home once he and his wife purchased it.

**Staff Report:**

Ms. Pokorski asked Mr. Sbiral about the Board of Trustees' action on this matter.

Mr. Sbiral said that the O'Donnell's had requested a change and that the Board of Trustees approved the language under the special use section of the R-6 zoning regulations. He noted that the question was raised as to why they needed a zoning change. Mr. Sbiral stated that the code permitted special use but any special use also required that it met the ten standards plus the seven standards that were listed in Chapter 3 of the ordinance. He stated that the standards were listed in the Staff Report.

Mr. Sbiral noted that the Board of Trustees passed the amendment to the Zoning Ordinance. He stated that the amendment was attached to the Staff Report. Mr. Sbiral stated the exterior changes would go to the Architectural Review Commission after the petitioner developed building plans.

Mr. Sbiral stated that Staff believed that all ten of the special use standards were met and that the use was appropriate for the site. He stated that the only remaining issue was parking. The regulations required one space per guest room. Mr. Sbiral stated that the Zoning Ordinance also required two parking spaces for the owners, and that Staff would not count space in front of garage door. He stated that Staff would count three parking spaces in the garage and three on the east side and one space behind the garage door. Mr. Sbiral noted that the revised plan would have seven parking spaces, which equated to two spaces for the residence and up to five spaces for guests. Mr. Sbiral said that Staff also agreed that the bed & breakfast was an appropriate use for this property, which was located on Dundee Avenue. He noted that the petitioner would also remove fence from front yard, which obstructed the view of traffic moving from Station Street to Dundee Avenue.

Mr. Kramer was asked what type of material the addition was going to be.

Mr. O'Donnell said that he found a picture of the home in the 1900's, and they would like to restore it as much as possible. He noted that the house was built in 1895 and had a bay window originally and they planned to restore it. He said that the exterior materials would most likely be cedar clapboard siding, cedar shingles.

Ms. Moston asked if the addition would allow for another use if the business didn't work.

Mr. O'Donnell stated that the investment was really a single-family dwelling, and the value of the business beyond that of a Bed and Breakfast would be in value of the real estate, \$ 8-900,000 after the renovation. He noted that the end result would probably be a 4,000 square foot building. Mr. O'Donnell said that each bedroom would have its own private bath. He noted that, essentially, most B&B's were single-family homes. Mr. O'Donnell stated that he could not predict how long the use would remain.

Ms. Moston asked what the petitioner was hoping to gain.

Ms. Pokorski said that was beyond the scope of our investigation.

Mr. O'Donnell stated didn't mind answering the question and he said that it was a lifestyle change for his family.

Ms. Pokorski said the Zoning Board should just look at the special use request. She stated that the Architectural Review Commission would determine the looks of the building.

Mr. O'Donnell stated that a bed and breakfast would only serve breakfast and/or afternoon tea.

**Public Comment**

Ms. Pokorski asked if there was any public comment on this matter. There was none.

Mr. O'Donnell stated that the general response to the proposal had been either indifference or a lot of excitement. He passed out documents summarizing neighborhood meetings. He stated that the house needed maintenance and this project would restore it.

**MOTION:**

Mr. Henehan moved to recommend approval of the special use permit for the home as a bed and breakfast. Mr. Julian seconded. Roll Call noted the following: Patricia Pokorski, yes; Ralph Bartlett, yes; Robert Henehan, yes; Ryan Julian yes; Bruce Kramer, yes; and Peg Moston, yes.

Mr. Sbiral stated this petition would probably go to the Board of Trustees the last meeting of January.

***ZBA-2-16 Palmer Residence 808 Harriet Lane Variation request for Minimum yard requirement***

*Mr. Sbiral distributed a letter to commissioners.*

Mr. William Palmer of 808 Harriet Lane, Barrington, the petitioner, stated he had a packet of letters of support and letters from real estate professionals in support of the petition.

Ms. Pokorski asked him to hold off presenting them.

Mr. Palmer introduced his wife, Jeannie Palmer, also of 808 Harriet Lane, Barrington, which was located one block south of Main on East Side of town. He stated that he and his wife had lived in Barrington many years and had family in area. He stated that he was a special education teacher at Barrington High School and worked with at-risk teenagers. Mr. Palmer noted that he also maintained a real estate broker's license. He said that his wife was an administrator in the human resources department for a telecommunications company. Mr. Palmer stated that he was seeking a variance to expand his garage from a one-car garage to a two-car garage by bumping out the west wall 4.5 feet to the edge of the existing sidewalk. He stated that the distance between the adjacent home's garage wall and his new garage wall would be approximately 12 feet. He presented a visual aid to the ZBA. Mr. Palmer stated that the distance between the new garage wall and the property line would be no less than the Village's current required minimum setback for detached garages constructed in the rear yard. He noted that the soffit extension would not exceed Village's current maximum. Mr. Palmer said the new wall would be 3 feet from the property line with a soffit of 14 inches and a gutter of 4 inches. He noted that the setback would be no less of a side yard setback than the Village allowed on side yards for garages constructed in the rear yard. Mr. Palmer stated that there was a sidewalk that currently ran along west property line that would be eliminated for the distance of the bump out. He noted that at the north end of the proposed garage there would be an entry door where the sidewalk would end.

Mr. Palmer explained that he planned for the new garage addition to have two double hung sash windows and added landscaping to complement the windows. He felt it was in harmony with the Comprehensive Plan and was in character with the neighborhood. Mr. Palmer felt this was a minimal plan and would enhance livability of their home. He noted that being able to put both cars in the garage would enhance the streetscape. He noted that this improvement had 18-inch returns, which would allow a lantern fixture to be added to the front. He also planned to add a portico to the front landing to enhance appearance. Mr. Palmer stated that the hip roof would be maintained. He read a letter of support from Joe Muran, the project architect, who said it was properly proportioned. The letter noted that Mr. Palmer was proposing to construct an addition to the garage to accommodate a second garage stall. It further noted that the garage was attached to the existing one (1) story residence and that the structure was currently nonconforming because of the change to the Zoning Ordinance and was located approximately 7.6 feet from the side lot line (west), where ten (10) was required.

Mr. Palmer stated that the proposal was for a nominal two-car garage with an inside dimension of only 18.5 feet currently 14 feet. He stated that the existing driveway would not be widened, as it was already a 2-car width. He noted that livability was compromised by lack of a two-car garage. He felt a two-car garage was a requirement and a hardship that today's living standard required this change. He felt it was the absolute minimum required. Mr. Palmer said there would be still be 12 foot of green space between the two homes after the addition was completed; however, to the north there would be 16.5 feet of separation. Mr. Palmer stated it would not affect the greenbelt. He stated that their garage side wall was parallel to the garage next door and that the two garage walls faced each other and that the addition would not affect the neighbor's view or habitability of their neighbor's home, and did not affect the daylight plane. He stated they felt they had followed guidelines of the Zoning Ordinance. He stated he had met with the Village planners. Mr. Palmer said that both the Village planner and Jim Wallace supported his petition. He stated that Jim Wallace had told him that Staff support could be withdrawn if there was objection from just one neighbor. He stated that he was amazed that a plan could be denied because of one neighbor's objection.

Mr. Palmer reiterated that the statement of rationale was valid and accurate. He noted that the project was in harmony with the neighborhood because most homes therein have 2-car garages and it enhanced the livability of his home. He referred to his submittal letter, and said that in meetings with Keith Sbiral and Jim Wallace, they had provided him with concise, appropriate response. He mentioned the standards he felt were addressed: practical difficulty, unique physical conditions of the property, situation was not caused by them, denied substantial rights, not merely special privilege, ordinance and plan purposes, no other remedy, and minimum required.

Mr. Palmer believed everything was going along well until a letter of opposition was received. He stated that this process had been ongoing from October 25 through December 30 which was the last meeting with Staff. In the last meeting, Mr. Palmer and his wife heard that the Staff Report would recommend denial of the petition. He stated that the Staff had encouraged him to seek neighborhood support. Mr. Palmer believed Mr. Sbiral had been forthright and honest and had guided them through the process. Mr. Palmer stated that if there was testimony from those who oppose this project, there were also neighbors to testify on his behalf. He noted that of the ten of his neighbors many had given statements of support. He said that eight of his neighbors wrote letters, and there was another letter to add to the list. He noted that these letters were from people who had lived in the neighborhood for 30 years.

Mr. Palmer summarized his presentation. He had letters from professionals who said the project would not have a negative impact on the character of the neighborhood, or create a negative value. He stated that for the record, these letters from the real estate brokers were from Tom and Joni Mitchell, from Remax; Paul Wells, the owner of ReMax; Jackie Boyd from Baird and Warner; and Margaret Semrad, manager of Coldwell Banker. He had letters from appraisers Falkanger and Charlie Walsh.

He went over the detail of the project on the drawings. He also had pictures of the two existing homes and garages.

Ms. Pokorski asked if there was any public comment.

***Public Comment: (30 minutes allowed)***

**Scott Glickauf of 813 Harriet Lane.** He had written a letter but also spoke in support of the petition. He felt it was a very modest addition and one that added to the livability of the home. He liked the aesthetics of keeping cars out of driveways and improving safety. He thought that the fewer cars that were on the street, the better. He said there were no sidewalks in the area and that people walked on the street. He thought it was nice to have people park the cars in the driveway rather than in the street. He thought that pedestrians would be safer. He also noted it was a safety element with respect to cars being housed in garages, because they would be less of a target for break-ins than with cars parked on streets. He noted that both he and his wife supported the petitioner's efforts to increase livability of petitioner's home.

**Geoff Dowling of 129 South Glendale,** a neighbor to the west of the petitioner's property, stated that he felt that he was being violated a little bit by the Palmer's improving their property at the expense of his property. He did not see any hardship. He noted that although he was not allowed me to make a copy of the petitioner's drawing because of copyright he asked to be allowed to get it from petitioner to take to his consultant, and asked if he could use the drawings on display. He pointed out that there were only 16.2 inches between the two residences. He stated that

there was currently green space between the sidewalk and garage that would be lost. He stated that the street was only one block long with 14 houses, seven on each side. He noted that five of them had one-car garages, or 36% and that was not a silent majority. He stated that some had only carports or no garage.

Mr. Dowling felt that many people in the neighborhood were first-time buyers, which was an important part of the community. He and his wife had also lived here a long time, had attended Barrington High School, and also had family in the area. He stated that the proposed 16.2 inches would be the closest of all single car garages in the neighborhood. He stated that he found one that was 18 feet, 18.3 inches, 24.6 inches and two abut each other. He questioned what would happen if they all decided to construct two-car garages. He said the proposed project was not only for livability but also for increased value of the home. He spoke with regard to the letters from professionals, it was an opinion of a professional real estate person; and he could also bring in an opinion to support his viewpoint. He felt the Palmer's increase in their home's value was his decrease in value.

Mr. Dowling stated that he had also been an appraiser, a real estate broker, a developer and an investor as well. He had appraised many houses, and he thought his value would go down and thought that was wrong. He also stated that it was not good for the community. He noted that there were other single-car garages in the neighborhood. He felt that this was not zero lot line area.

Mr. Dowling addressed the practical difficulty standard and said that there were two things. He spoke about the garage's design and wondered what would be wrong with a tandem design one stall in front and one in back; that was an alternative. He also stated that it could also be a detached garage on the other side of lot in the back on the east. He noted that this option would destroy that backyard but would not destroy his property. He stated that this addition was not the only alternative. He said there were other homes in this community that had tandem. He again stated the starter home concept and that 40 percent of homes had single car garages in this area.

Mr. Dowling questioned that the Palmers' were just doing this for livability; that sooner or later, they might move, but that addition would stay there, the truth of the matter. He was also trying to find out how they would get a lawnmower between the homes because it was only 3 feet below the eave line. Mr. Dowling also asked whether they would be on his property to build this addition. He also asked what if he decided to put up a fence, how would they get in there to build it. Mr. Dowling also believed that it would decrease the value of their property and that their house was not a downtrodden house; its value was already way up there.

Mr. Dowling addressed another concern that one of the problems he had with the petition was it stated that it was an existing 1.5 car garage. He passed out IAI standards for a one-car garage which said the proper measurement from outside wall to outside wall would be 11 feet. He stated that a two-car garage would normally be 20-22 foot wide and asked whether they could even fit in 2-cars with this increase. He mentioned it would be very similar to a detached garage as far as setback; however, a detached garage was in the back not on the side. He stated that the information the about the side setbacks was 3' which was 14" inch overhang plus a gutter or 6 for a total 20 inches when you only had 36' to start with.

Mr. Dowling commented that the notice to all neighbors stated that the greenbelt would not be disturbed; however, existing landscaping would be removed, which, in his opinion, decreased greenery. He was not sure if neighbors knew that.

Mr. Dowling also had comments on the Staff Report, which he thought was very good. He stated that Mr. Sbiral was, at one point, in favor of the petition unless there was opposition by the neighbors. He said that Mr. Sbiral stated that when the Staff gets all the plans, they took a hard look at them. He pointed out the overhang goes so far over. He noted that after that meeting, there was no question that the Staff would deny the petition. He stated that the Staff report was recommending denial on all standards. He noted that although the petitioners changed the original plan, they just reduced overhang 14" from 3 feet, which would not be consistent with rest of the house. He noted that different architects would have different opinions.

Mr. Dowling directed attention to the last page, where it indicated there was no other remedy. He disagreed and thought it could be a tandem garage, not a side-by-side, and they could relocate the existing driveway to the east. Mr. Dowling reported that he also had to relocate his driveway. He stated that the resulting structure would be less

than two feet, but he felt was only about one foot. He felt it was unfair. He hoped the Zoning Board would take a hard look at it and asked the Zoning Board of Appeals to deny the request.

**Mike Wicknicki, 807 Harriet.**

Mr. Wicknicki stated that this was hard as he and his wife loved both their neighbors; they lived directly across from the Palmers. He noted that his family had moved here from Bartlett and absolutely had to have a 2-car garage and most of his friends also had to have a 2-car garage. He stated that both neighbors have impeccable yards. He stated that the area, as had been noted, was the back of their garages. He stated that as a neighbor across the street and looking at it, he and his wife didn't have a problem with the petitioner's request.

Ms. Pokorski swore in additional persons who would be testifying.

**Joan Stefan, 821 Harriet Lane** stated she had been living in the neighborhood since May of 1999, and had grown up in a real estate family, and had seen many changes. She felt that more than half of the homes sold today had two-car garages. She stated that in this particular area, however, more than half had a 2-car garage, and she felt it was a necessity. She thought it added to curb appeal to this house and to the street and the neighborhood. She lent support to the project and felt it would be an asset to the street.

**Joy Dowling, 129 South Glendale.** She stated the petitioners bought their home about 21 years ago. She noted that when they bought the house, they knew that it had only a one-car garage, and they still bought it. She stated that right now her garage was a garage but that it could change and become their master bedroom.

Ms. Pokorski made a couple comments. She said this petition was a personal issue and emotions ran high. She stated that the members of the Zoning Board of Appeals could sympathize with both parties, and it was the Zoning Board of Appeals' job to interpret the zoning laws, not to determine how long someone had lived in the neighborhood. She stated what the Zoning Board of Appeals voted on did not set a legal precedent and that this Board only made recommendations to the Board of Trustees. She reminded all parties that it was the ZBA's job to verify facts, and that was extremely important. She stated that the Zoning Board of Appeals relied on Staff to verify measurements and technical requirements.

**Staff Report**

Mr. Sbiral discussed the petitioners' discussions with Staff.

He stated that the property was zoned R-5, which required 12.5 % side yard setback, which meant a 10-foot setback was required from the side property lines to the foundation of the home/garage. He stated that the proposed petition would have an eave setback of 16 inches, which included a 4-inch gutter. The amount of the variation was for 7.2 feet from lot line. He stated that the typical setback would be 8.6 feet for that part of home. He stated that there was some confusion about a detached garage's 3-foot setback, with an 18-inch eave; he noted that these requirements were for a structure entirely within the rear 30 feet of a property. He noted that if the garage was completely in rear 30 feet, it must be 3 feet from the side and 5 feet from the rear. He noted that this location would give the largest setback and would not encroach on neighbors. He also added that to clarify zoning ordinances were in place to protect one neighbor from another.

Mr. Sbiral stated that in the Staff review process, the need for a variation was identified at the permit application phase. He noted that Staff was positive at that point since it was a preliminary discussion at that time. He stated that Staff told Mr. Palmer he had a right to be heard before this Board.

Mr. Sbiral said that back in October; the project was in a preliminary stage, and no one was ever discouraged to come before this board and were told they had every right to be heard here and also at the Board of Trustees. He stated that Staff did feel it was livability standard to have a two-car garage. He noted that during this time in October and today the PZED Committee had an on-going discussion of variations and the consistency of those variations. He stated that during these 3 months Staff had developed more of a standard as to what was a hardship and it had become more and more strict. He stated that a hardship was some physical element of the land, not the livability standards. He stated that a legal hardship would be a physical issue of the land. He noted that from the first meeting the petitioner was told in the event of neighbor's opposition, Staff did not usually support a petition.

Ms. Pokorski asked how much weight was given each property owner. She asked if Staff asked 14 property owners and 13 supported it and one did not support it, was there any standard to consider, was it if any one objected or did there have to be some credibility to the claim? She stated that the Staff was not able to articulate a standard.

Mr. Sbiral explained that at a preliminary stage, the Staff did not do a full analysis until everything had been submitted. He stated that the Staff Report was issued only after all of the materials had been reviewed. He stated that if an immediate neighbor objected, it carried more weight than a neighbor who was located a half mile away. He stated that there was a clear difference between what was a livability standard and what was a true hardship. Mr. Sbiral stated that a hardship, in Staff's opinion, ran with the land - a wetland or encroachment on a setback or something that happened by nature—destruction by wind and fire and/or needed permission to rebuild. He noted that this was the traditional standard for a variation. He stated that the original plan indicated a larger overhang to match the rest of house and the petitioner decreased it to try to accommodate the distance to the property line.

Mr. Sbiral went through the Staff Report and presented the Staff's findings relative to the eight standards for variations listed in the Zoning Ordinance. He noted that Staff recommended that the Zoning Board of Appeals recommend denial of the request to the Board of Trustees.

Mr. Julian had a few comments. He was troubled because it was a terrific addition and would be good for the neighborhood and, he believed that a 2-car garage was almost a standard. He stated that he was concerned about another case of adding living space where it had not been allowed before and that the ZBA should not allow that as the Village had a Zoning Ordinance and should stay as close to that as possible. He noted that he would like to see the project completed, but he was opposed to it. He wondered if the project could be completed within existing setbacks. He noted that this situation was troublesome. He noted that he was not really in favor of the variation even though he would like to see the project done. He felt that giving people what they needed, such as a 2-car garage, was important. He noted that the setbacks were different now than when houses were constructed with one-car garages.

Mr. Bartlett said most new homes were constructed with two-car garages; he felt it was a beautiful plan but with the additional encroachment, he was not in favor of the variation.

Mr. Julian speculated that there would be other people with single car garages also want a two-car garage. He stated that he would not approve any variance that increased the number of setback variances.

Ms. Pokorski said that the ZBA had to look at the case before it, and not something down the road that may or may not arise. She stated that she was troubled and did not find a lot of comfort in Staff Report because of the subjectivity of the standards. She felt that the conclusion dictated the result, rather than the conclusion being drawn from the facts and the code.

Mr. Sbiral clarified that the Staff tried to look at each standard and then look at its applicability to each case. He noted that, by law, property values could not be considered in deciding whether or not a variance is permitted.

Ms. Moston asked about the hardship issue with the current owner. She wondered if the ability to sell the property was ever considered a hardship considering the lot size and the one-car garage.

Mr. Sbiral said that the zoning laws make it inappropriate to consider the sale of the property.

Ms. Pokorski stated that as a real estate attorney for 22 years, she was confused because it was a different interpretation than what the ZBA had been hearing during her tenure on the Board. The ZBA had identified practical difficulty and hardship under circumstances that were very similar to this, and now Staff was saying it had to be a physical condition of land. She noted that she was not saying that this interpretation was bad; but it was different than what the ZBA had been operating under. She thought that was the standard and she questioned whether there really was another practical remedy.

Mr. Kramer said this case was a unique situation. He noted that the project would be a beautiful reconstruction of house, and really nice for whole neighborhood. He thought people who lived in Barrington with one-car garages would probably like a two-car garage. He noted that everyone would like a two-car garage, but ultimately, but if there was not enough space, then there was not enough space, and the ZBA had to stop there.

Ms. Pokorski asked if there was any discussion or any other remedy to accommodate petitioner without offending the neighbors.

#### **Rebuttal Time for Mr. Palmer**

Mr. Palmer stated that the feet and inches was an issue because his first and foremost concern was not to have a negative effect on his neighbor. He noted that with his broker's license, he did not see a negative effect. He stated that he looked at Village's Zoning Ordinance. He noted that he looked at the side yard setbacks. He stated that in the rear yard he could be as close as 3 feet to lot line with an 18-inch overhang. He stated that the dimensions of his planned building wall did not get any closer than what the Village already allowed in the rear yard. He noted that if the garage was located there, he would not need a variance. He stated that he did not currently want to pursue that option. He stated that it was not the least obtrusive solution but he could do it. He noted that his next choice would have been to place the garage on the east side of his property. Mr. Palmer stated that this would require a new curb cut and put the garage in the back yard and it would not be in keeping the character of neighborhood. He noted that his neighbors lived on Glendale, not on Harriet Lane. He stated that out of the 14 houses on Harriet, nine have 2-car garages.

Mr. Palmer said that he appreciated the Chair's noting the difference between the hypothetical and not worrying about setting precedent. He stated that he could discuss hypothetical issues, but he chose not to do that. He stated that when he met with Mr. Sbiral in October, he (Mr. Sbiral) went over packet and the standards. Mr. Palmer noted that he had preliminary plans that he discussed with Staff at that time. He noted that if the garage was constructed in the back yard, no variance would be required. He stated that when he discussed the standards with Mr. Sbiral, he (Mr. Palmer) needed help in understanding them. Mr. Palmer read part of his notes that were a result of the notes of that meeting.

1. Practical difficulty. We (Mr. Palmer and Mr. Sbiral) discussed, he (Mr. Sbiral) said it was a practical difficulty because I thought I understood that it was a hardship because I could not have a two-car garage.
2. Unique physical condition. The response was that there was no other option for siting a two-car garage on the property.
3. Not self-created. The comment was that he (Mr. Palmer) did not create it; the home was built in a different era.
4. Denied substantial rights. By today's standards, most people had 2-car garages.
5. Special privilege. Their plan was not special privilege because of physical constraints of property created a hardship.
6. Ordinance and plan. The proposed improvement did not change it (the ordinance/plan purposes). Existing dwelling would remain single-family dwelling.
7. No other way or remedy. There was no other way because a reasonable use was to have and use a two-car garage.
8. The Palmers' were only asking for absolute minimum.

Mr. Palmer stated they had two aging Acura Legends. He stated that he had measured the proposed floor space for the garage and that there would be 24 inches between driver's door and wall, 30 inches between cars, and 24 inches between right side of car and wall. He noted that right now the garage was 21.5 feet deep and he stored motorcycles and other items in there such as lawn equipment. He stated that it was possible to store them there because the



garage was 21.5 feet deep. He noted that in the meeting with Jim Wallace and Mr. Sbiral, when he asked about justification for denial, they stated that the Zoning Ordinance was in place to protect neighbors. He stated that when he made this proposal, it did not affect the neighbor's living area. The proposed location, in relation to the neighbor's property, was a garage next to another garage. He stated that when he sought support, he went to real estate appraisers with best reputation to get appraisals; those with strong, deep roots in the community. He noted that he only paid for one report. He stated that when he asked the experts for the letters, he asked for the letters to address whether the neighbor's property would be negatively impacted. He noted that he asked the experts to be very specific as to whether the proposed addition would have a negative effect on his neighbors.

Mr. Palmer stated the irony in this case was that he could construct a detached garage in the rear yard without a variance. He stated that this would not be in keeping with the neighborhood's character. He stated that while it was feasible, this would have a negative effect. Mr. Palmer stated that he chose to seek a variance because he felt it was the right thing to do. He noted that this zoning variation protected neighbors better than the alternative of building a detached garage.

Ms. Pokorski asked Mr. Sbiral asked about the practical difficulty hardship standard and whether their side yards backed up to the back yard.

Mr. Sbiral clarified that Mr. Dowling was on northeast corner of Glendale and Harriet Lane. He said the property line in question was Mr. Dowling's side property line. He stated that by definition (in the Zoning Ordinance), the shorter of the two frontages was the front yard for setback purposes, and the longer was the corner side yard. Mr. Sbiral said that on this corner lot, the Zoning Ordinance did not define the east property line as the Dowling's rear yard.

Mr. Sbiral said that this was an attempt to keep rear yards open and keep structure in the back of the property to provide open separation.

Mr. Henehan stated that the Palmers' were spending a lot of money to just add one car space when the garage could be constructed in the back yard and be a 3-car garage. He went on to say that the petitioners could then expand living space of the house into the existing garage.

Mr. Palmer said he already had a very large house with 3 bathrooms and did not want to expand house.

Mr. Palmer said that he was not looking for a 3-car garage and did not want to build a freestanding structure in exchange for one that did not affect livability, and the neighbors use the area as a staging for the refuse. He stated that he had 3 feet for landscaping, which was very nominal. He stated that he could add a window box under double hung windows for plantings. He stated that this was the least obtrusive plan. He noted that his plan created value for everyone else in the neighborhood. Mr. Palmer stated that he had been lived in the home for 21 years and was deeply entrenched in the community. He noted that this plan would greatly increase livability of his home. He noted that he would not have to worry about vandalism of his car or finding that his car locks were frozen. He stated that he felt it was a very nominal improvement in a neighborhood with the wonderful people on Harriet Lane. He stated that 9 out of the 11 people he talked to had sent detailed letters of support. He stated that only one neighbor was not supporting them.

Ms. Pokorski said that clearly the neighbor most affected by the proposal are the Dowlings, who lived next door. She noted that the petitioner stated the addition would face the Dowling's garage.

Ms. Pokorski said this issue was still about property lines. She asked about the radius that people had to be notified.

Mr. Palmer said that 34 out of 36 within the radius had been notified, and that one house was vacant.

Ms. Pokorski asked Mr. Sbiral what the purpose of notification to property owners who might be affected by the change so they had an opportunity for them to participate in the hearing. She asked where the code said where the ZBA should weigh the neighbors' commentary. She stated that the Zoning Ordinance had eight standards, and it

did not say how to weigh the neighbors support or opposition. She felt it was clearly implied in the code by requiring the legal obligation notification.

Mr. Sbiral said the Zoning Ordinance does not specifically address the public's comments. He stated that the requirement of 250' radius was not a state statute; however, the Village of Barrington had adopted the 250-foot radius.

Mr. Sbiral read the additional standards for conditions 3.15 section E, numbers 11-18 as listed in No.11. He noted that the ordinance didn't speak directly as to who should have more say and who should have less. He also noted that the Village published hearing notices.

Ms. Pokorski asked Dowlings' if there could be some compromise. She suggested that this could be submitted to a neutral mediator, who would determine that the value of property was not affected. She asked whether either of them or both would be willing to go to arbitration.

Mr. Dowling said that 14 inches was way too close to his property line, and there were rules to protect him.

Ms. Pokorski said she would try to read the variations standards and see if there were any applicable provisions.

Mr. Dowling said that Zoning Board of Appeals did not have to approve every variation that came before board.

Mr. Julian said that he felt that over time there would be a garage put in the back. He said that there was no variation required for that. He noted that if this was not approved, whether or not Mr. Palmer chose to put a garage in the back there, at some point there would be one there. He stated that a one-car garage was not practical in these days.

Ms. Dowling asked why he had to lose for their neighbors to gain space.

Mr. Julian said he thought he would vote no because of further encroachment and to take it further troubled him. He stated that he didn't see any way around it. He thought it would cause more building, and it would probably lose more space.

Ms. Moston asked if the petitioners would look at encroaching into their living area or would they would prefer a detached garage in that back yard.

Mr. Palmer said we were trying to protect integrity of street, an adjacent property went from a one-car garage to a two-garage. He stated that the side yard variation was a reduction of a side yard setback that would benefit livability and be a benefit to the stability of housing in the area.

Ms. Pokorski said that the mission of this board was not to weigh the value of the property.

Mr. Palmer said it was addressed in Mr. Sbiral's report that this would improve housing stability by one house and increase livability by one house.

Mr. Kramer said this would still go to the Board of Trustees.

Ms. Pokorski said she went through the variation standards, and she disagreed with Staff, which she was entitled to do. She stated that it was not clear to what extent to a neighbor's very real concern took precedent over what 90% of the other people thought was a good idea.

Mr. Sbiral said that when the ordinance was silent on a topic; it was up to the board to make a determination.

Ms. Pokorski said that it was to take conflict and see if there was a way to minimize it or appease it.

Mr. Sbiral said that Staff could talk further with petitioner and neighbors to come up with an option or solution, the petition could be continued. He stated that, in closing, Staff tried to work in all the positive points from the initial

discussion with Mr. Palmer. He stated that Staff was not in the business of writing petitions or telling them what to say. Mr. Sbiral clarified that he wrote the Staff Report with substantial input from the Village Engineer, the Zoning Official, and the Economic Development Director. He noted that Staff did not deal with hypothetical situations. He stated that Staff looked at case at hand and discussed potential arguments both for and against giving a petitioner a firm understanding of the ordinance with respect to the surrounding property owners.

Mr. Julian stated that if this garage was in back yard and was detached, it would have met the zoning requirements if it was in the rear 30 feet, but the requirement was not met because it was attached to the house.

Ms. Pokorski asked if the petitioners could do a tandem garage.

Mr. Sbiral said there was an existing structure there and they could build a little farther back.

Mr. Palmer stated that the existing structure was a family room.

Mr. Sbiral said although it was non-conforming a variance would not be required, and the petitioner would probably have to build onto the house somewhere else; therefore, a tandem garage might work.

Ms. Pokorski again stated that the Board's mission was to look at variation standards and determine by reviewing Staff's reports and using their expertise to interpret them and also determine whether the standards were met.

**MOTION:** Mr. Henehan moved to recommend denial of ZBA 02-16, a request variation for decrease of side yard setback, adopting Staff's findings of fact as the ZBA's. Mr. Julian seconded.

Roll Call vote noted the following: Mr. Julian, yes; Mr. Kramer, yes; Ms. Moston, yes; Mr. Bartlett, no; Mr. Henehan, yes; Ms. Pokorski, no.

The MOTION carries 4-2 and a recommendation for denial will go to Board of Trustees likely to be held the last meeting in January.

Ms. Pokorski announced there were would be a brief 5 minute recess.

**ZBA 02-17 Nextel West Corporation Communications (549 North Northwest Highway) Special Use**

Mr. Terry stated that he was seeking approval of a special use permit to allow communications tower facilities within the P-L Public Land District (Chapter 9, Section 9.3C). He noted that the property was also located in CT Communications Tower Overlay District.

Ms. Pokorski swore in those testifying

**Drew Terry, zoning representative from Nextel, 400 West Grand Avenue, Elmhurst 60126**

He stated that Nextel proposed to mount up to 12 panel antennas on the existing water tower at 549 North Northwest Highway. He stated that they also planned to install 12' x 20' equipment shelter in the northwest corner of the property. He noted that the new shelter would match the two existing shelters. He stated that an 8' foot wrought iron fence would be constructed to match the existing fencing.

Mr. Terry stated that they would relocate three evergreen trees on property to south end and also add additional trees. He stated that access to the property would be through Pepper Construction to the east. He noted that the plans showed they had planned to use Library but they were no longer planning to utilize it. Mr. Terry stated that there had been some concerns expressed for using that entrance; therefore, they would not use it.

Mr. Terry noted that Nextel had a temporary site right next to this site on the Jewel Tea building, but the Park District asked Nextel to move equipment by end of 2002. He noted that they received permission from Village to mount a temporary structure on the water tower until they received approval for a permanent structure.

Mr. Ryan from library board and an adjacent property owner acknowledged the petitioner's comments.

Mr. Terry stated that the company was not in business to construct towers, but to provide communications service so whenever possible they utilize existing structures like the Jewel Tea building or a water tower. He noted that he also had supporting recommendations from Architectural Review Commission and the Staff technical review team regarding special use standards. He provided several pictures of the site. He stated there were 3 existing carriers on the site. He noted that two of them have shelters on the site; one was within base of the tower.

Mr. Henahan pointed out the different look of the water tower with the new antenna in the “before and after” photographs.

#### **Public Comment**

Ms. Pokorski asked for any public comment.

Mr. Ryan stated that he had helped Village acquire the property many years ago. He stated he did not mind the water tower, but then they started putting up communication towers. He stated that although the Zoning Board of Appeals recommended denial of the use at that time, the Board of Trustees approved it. He asked whether there would be enough space for another shelter as the property was only 100x100 feet.

Mr. Sbiral stated that 30% was the minimum open space requirement in the P-L zoning district, and it was met by this proposal. He noted that there were only 4 co-locations on the proposed site.

Mr. Ryan stated that the footprint was the problem.

Mr. Sbiral said the maximum was four; this was the end of what could be allowed on this particular water tower. He noted that there would be three antennas on the tower and one on the base.

Mr. Ryan stated the Library Board had met with Staff. He stated that there was a severe grade drop-off on the property. He noted that in order to gain access to this area, the petitioner would be cutting across a major water main and the Library Board did not feel there was any way that would be approved. He stated that fortunately this was the right time.

#### **Staff Report.**

Mr. Sbiral stated that Staff felt this was a prime location for a cellular site and one of few locations designated in the Village for a cellular tower. He noted that the Park District modified its requirements for the Jewel Tea site. He asked the petitioner whether access through Pepper would require removal of trees.

Mr. Terry said no, but they would confirm that no trees would be removed.

Mr. Sbiral noted that Nextel would pay for a structural integrity test for the water tower, which would be done by the Barrington Public Works Department. He noted that there were only four spots available at this site and it would then be full if this proposal is approved. He noted that there were not any more cellular antenna sites, except for Park District site. Mr. Sbiral stated that a Zoning Ordinance amendment would be required to permit any new cellular tower sites. He stated that the Architectural Review Commission had reviewed and recommended approval of this proposal. Mr. Sbiral stated that Staff recommended approval.

**MOTION:** Mr. Bartlett moved to recommend approval of ZBA 02-17 requesting a special use permit for a cellular antenna, adopting Staff's findings of fact as the ZBA's. Mr. Kramer seconded, Roll Call noted the following Mr. Julian, yes; Mr. Kramer, yes; Ms. Moston, yes; Mr. Bartlett, yes; Mr. Henahan, yes; Ms. Pokorski, yes.

The MOTION carries 6-0. This would go to BOARD OF TRUSTEES of January 27 and be tied in with the lease agreement.

#### **APPROVAL OF MINUTES**

MOTION: Mr. Julian moved to approve minutes as corrected of October 1, 2002, meeting, Mr. Henahan seconded.

Roll Call noted the following Mr. Julian, yes; Mr. Kramer, yes; Mrs. Moston, yes; Mr. Bartlett, yes; Mr. Henehan, yes; Mr. Pokorski, yes.

Mr. Sbiral noted in the minutes of December 3, 2002, that Ms. Moston's name was spelled wrong as was her name tag.

Ms. Pokorski noted that in the ZBA's packet there was the revised schedule of meetings for 2003 with the change in April being made to accommodate the election date.

#### **PLANNER'S REPORT**

There was no actual document: Mr. Sbiral commented on Staff's process that they really tried hard to give the ZBA most straightforward and up-to-date information. He stated that Staff did not issue an opinion to anyone before the Staff Report came out. He stated that Staff had made a real effort to clarify the procedure and process to petitioners, until the Staff Report was issued. He stated that Staff was trying to work toward a little clearer direction to make the standards clearer.

Mr. Sbiral noted that Staff had a meeting with the Village Attorney to see how to interpret the standards, and they were trying to develop some sort of average of what the standards should be according to what the Zoning Board of Appeals and the Board of Trustees had approved. Staff was trying to develop an understanding of what each of the eight standards meant and how they should be interpreted.

Mr. Sbiral suggested that the Zoning Board of Appeals could direct Staff how they wanted them to be interpreted. He noted that there was a lot of discussion as to how our Village interpreted them. He wanted to clarify that this case was an anomaly.

#### **Adjournment**

**MOTION:** Mr. Barlett, Mr. Henehan seconded. Voice vote recorded all yes.

Meeting was adjourned at 10 p.m.

Respectfully submitted,  
Sally Lubeno, Recording Secretary

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Patricia Pokorski, Chairperson  
Zoning Board of Appeals